

AN ACT concerning safety.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Administrative Procedure Act is amended by changing Section 1-5 as follows:

(5 ILCS 100/1-5) (from Ch. 127, par. 1001-5)

Sec. 1-5. Applicability.

(a) This Act applies to every agency as defined in this Act. Beginning January 1, 1978, in case of conflict between the provisions of this Act and the Act creating or conferring power on an agency, this Act shall control. If, however, an agency (or its predecessor in the case of an agency that has been consolidated or reorganized) has existing procedures on July 1, 1977, specifically for contested cases or licensing, those existing provisions control, except that this exception respecting contested cases and licensing does not apply if the Act creating or conferring power on the agency adopts by express reference the provisions of this Act. Where the Act creating or conferring power on an agency establishes administrative procedures not covered by this Act, those procedures shall remain in effect.

(b) The provisions of this Act do not apply to (i) preliminary hearings, investigations, or practices where no

final determinations affecting State funding are made by the State Board of Education, (ii) legal opinions issued under Section 2-3.7 of the School Code, (iii) as to State colleges and universities, their disciplinary and grievance proceedings, academic irregularity and capricious grading proceedings, and admission standards and procedures, and (iv) the class specifications for positions and individual position descriptions prepared and maintained under the Personnel Code. Those class specifications shall, however, be made reasonably available to the public for inspection and copying. The provisions of this Act do not apply to hearings under Section 20 of the Uniform Disposition of Unclaimed Property Act.

(c) Section 5-35 of this Act relating to procedures for rulemaking does not apply to the following:

(1) Rules adopted by the Pollution Control Board that, in accordance with Section 7.2 of the Environmental Protection Act, are identical in substance to federal regulations or amendments to those regulations implementing the following: Sections 3001, 3002, 3003, 3004, 3005, and 9003 of the Solid Waste Disposal Act; Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; Sections 307(b), 307(c), 307(d), 402(b)(8), and 402(b)(9) of the Federal Water Pollution Control Act; Sections 1412(b), 1414(c), 1417(a), 1421, and 1445(a) of the Safe Drinking Water Act; and Section 109 of the Clean Air Act.

(2) Rules adopted by the Pollution Control Board that establish or amend standards for the emission of hydrocarbons and carbon monoxide from gasoline powered motor vehicles subject to inspection under the Vehicle Emissions Inspection Law of 2005 or its predecessor laws.

(3) Procedural rules adopted by the Pollution Control Board governing requests for exceptions under Section 14.2 of the Environmental Protection Act.

(4) The Pollution Control Board's grant, pursuant to an adjudicatory determination, of an adjusted standard for persons who can justify an adjustment consistent with subsection (a) of Section 27 of the Environmental Protection Act.

(4.5) The Pollution Control Board's adoption of time-limited water quality standards under Section 38.5 of the Environmental Protection Act.

(5) Rules adopted by the Pollution Control Board that are identical in substance to the regulations adopted by the Office of the State Fire Marshal under clause (ii) of paragraph (b) of subsection (3) of Section 2 of the Gasoline Storage Act.

(d) Pay rates established under Section 8a of the Personnel Code shall be amended or repealed pursuant to the process set forth in Section 5-50 within 30 days after it becomes necessary to do so due to a conflict between the rates and the terms of a collective bargaining agreement covering the compensation of

an employee subject to that Code.

(e) Section 10-45 of this Act shall not apply to any hearing, proceeding, or investigation conducted under Section 13-515 of the Public Utilities Act.

(f) Article 10 of this Act does not apply to any hearing, proceeding, or investigation conducted by the State Council for the State of Illinois created under Section 3-3-11.05 of the Unified Code of Corrections or by the Interstate Commission for Adult Offender Supervision created under the Interstate Compact for Adult Offender Supervision or by the Interstate Commission for Juveniles created under the Interstate Compact for Juveniles.

(g) This Act is subject to the provisions of Article XXI of the Public Utilities Act. To the extent that any provision of this Act conflicts with the provisions of that Article XXI, the provisions of that Article XXI control.

(Source: P.A. 97-95, eff. 7-12-11; 97-945, eff. 8-10-12; 97-1081, eff. 8-24-12; 98-463, eff. 8-16-13.)

Section 10. The Environmental Protection Act is amended by changing Sections 4, 5, 7.5, 29, and 41 and the heading of Title IX and by adding Sections 3.488 and 38.5 as follows:

(415 ILCS 5/3.488 new)

Sec. 3.488. Time-limited water quality standard.
"Time-limited water quality standard" has the meaning ascribed

to the term "water quality standards variance" in 40 CFR 131.3(o).

(415 ILCS 5/4) (from Ch. 111 1/2, par. 1004)

Sec. 4. Environmental Protection Agency; establishment; duties.

(a) There is established in the Executive Branch of the State Government an agency to be known as the Environmental Protection Agency. This Agency shall be under the supervision and direction of a Director who shall be appointed by the Governor with the advice and consent of the Senate. The term of office of the Director shall expire on the third Monday of January in odd numbered years, provided that he or she shall hold office until a successor is appointed and has qualified. The Director shall receive an annual salary as set by the Compensation Review Board. The Director, in accord with the Personnel Code, shall employ and direct such personnel, and shall provide for such laboratory and other facilities, as may be necessary to carry out the purposes of this Act. In addition, the Director may by agreement secure such services as he or she may deem necessary from any other department, agency, or unit of the State Government, and may employ and compensate such consultants and technical assistants as may be required.

(b) The Agency shall have the duty to collect and disseminate such information, acquire such technical data, and conduct such experiments as may be required to carry out the

purposes of this Act, including ascertainment of the quantity and nature of discharges from any contaminant source and data on those sources, and to operate and arrange for the operation of devices for the monitoring of environmental quality.

(c) The Agency shall have authority to conduct a program of continuing surveillance and of regular or periodic inspection of actual or potential contaminant or noise sources, of public water supplies, and of refuse disposal sites.

(d) In accordance with constitutional limitations, the Agency shall have authority to enter at all reasonable times upon any private or public property for the purpose of:

(1) Inspecting and investigating to ascertain possible violations of this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order; or

(2) In accordance with the provisions of this Act, taking whatever preventive or corrective action, including but not limited to removal or remedial action, that is necessary or appropriate whenever there is a release or a substantial threat of a release of (A) a hazardous substance or pesticide or (B) petroleum from an underground storage tank.

(e) The Agency shall have the duty to investigate violations of this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order; to issue administrative citations as provided in

Section 31.1 of this Act; and to take such summary enforcement action as is provided for by Section 34 of this Act.

(f) The Agency shall appear before the Board in any hearing upon a petition for variance or time-limited water quality standard, the denial of a permit, or the validity or effect of a rule or regulation of the Board, and shall have the authority to appear before the Board in any hearing under the Act.

(g) The Agency shall have the duty to administer, in accord with Title X of this Act, such permit and certification systems as may be established by this Act or by regulations adopted thereunder. The Agency may enter into written delegation agreements with any department, agency, or unit of State or local government under which all or portions of this duty may be delegated for public water supply storage and transport systems, sewage collection and transport systems, air pollution control sources with uncontrolled emissions of 100 tons per year or less and application of algicides to waters of the State. Such delegation agreements will require that the work to be performed thereunder will be in accordance with Agency criteria, subject to Agency review, and shall include such financial and program auditing by the Agency as may be required.

(h) The Agency shall have authority to require the submission of complete plans and specifications from any applicant for a permit required by this Act or by regulations thereunder, and to require the submission of such reports

regarding actual or potential violations of this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order, as may be necessary for the purposes of this Act.

(i) The Agency shall have authority to make recommendations to the Board for the adoption of regulations under Title VII of the Act.

(j) The Agency shall have the duty to represent the State of Illinois in any and all matters pertaining to plans, procedures, or negotiations for interstate compacts or other governmental arrangements relating to environmental protection.

(k) The Agency shall have the authority to accept, receive, and administer on behalf of the State any grants, gifts, loans, indirect cost reimbursements, or other funds made available to the State from any source for purposes of this Act or for air or water pollution control, public water supply, solid waste disposal, noise abatement, or other environmental protection activities, surveys, or programs. Any federal funds received by the Agency pursuant to this subsection shall be deposited in a trust fund with the State Treasurer and held and disbursed by him in accordance with Treasurer as Custodian of Funds Act, provided that such monies shall be used only for the purposes for which they are contributed and any balance remaining shall be returned to the contributor.

The Agency is authorized to promulgate such regulations and

enter into such contracts as it may deem necessary for carrying out the provisions of this subsection.

(1) The Agency is hereby designated as water pollution agency for the state for all purposes of the Federal Water Pollution Control Act, as amended; as implementing agency for the State for all purposes of the Safe Drinking Water Act, Public Law 93-523, as now or hereafter amended, except Section 1425 of that Act; as air pollution agency for the state for all purposes of the Clean Air Act of 1970, Public Law 91-604, approved December 31, 1970, as amended; and as solid waste agency for the state for all purposes of the Solid Waste Disposal Act, Public Law 89-272, approved October 20, 1965, and amended by the Resource Recovery Act of 1970, Public Law 91-512, approved October 26, 1970, as amended, and amended by the Resource Conservation and Recovery Act of 1976, (P.L. 94-580) approved October 21, 1976, as amended; as noise control agency for the state for all purposes of the Noise Control Act of 1972, Public Law 92-574, approved October 27, 1972, as amended; and as implementing agency for the State for all purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (P.L. 96-510), as amended; and otherwise as pollution control agency for the State pursuant to federal laws integrated with the foregoing laws, for financing purposes or otherwise. The Agency is hereby authorized to take all action necessary or appropriate to secure to the State the benefits of such federal Acts, provided

that the Agency shall transmit to the United States without change any standards adopted by the Pollution Control Board pursuant to Section 5(c) of this Act. This subsection (1) of Section 4 shall not be construed to bar or prohibit the Environmental Protection Trust Fund Commission from accepting, receiving, and administering on behalf of the State any grants, gifts, loans or other funds for which the Commission is eligible pursuant to the Environmental Protection Trust Fund Act. The Agency is hereby designated as the State agency for all purposes of administering the requirements of Section 313 of the federal Emergency Planning and Community Right-to-Know Act of 1986.

Any municipality, sanitary district, or other political subdivision, or any Agency of the State or interstate Agency, which makes application for loans or grants under such federal Acts shall notify the Agency of such application; the Agency may participate in proceedings under such federal Acts.

(m) The Agency shall have authority, consistent with Section 5(c) and other provisions of this Act, and for purposes of Section 303(e) of the Federal Water Pollution Control Act, as now or hereafter amended, to engage in planning processes and activities and to develop plans in cooperation with units of local government, state agencies and officers, and other appropriate persons in connection with the jurisdiction or duties of each such unit, agency, officer or person. Public hearings shall be held on the planning process, at which any

person shall be permitted to appear and be heard, pursuant to procedural regulations promulgated by the Agency.

(n) In accordance with the powers conferred upon the Agency by Sections 10(g), 13(b), 19, 22(d) and 25 of this Act, the Agency shall have authority to establish and enforce minimum standards for the operation of laboratories relating to analyses and laboratory tests for air pollution, water pollution, noise emissions, contaminant discharges onto land and sanitary, chemical, and mineral quality of water distributed by a public water supply. The Agency may enter into formal working agreements with other departments or agencies of state government under which all or portions of this authority may be delegated to the cooperating department or agency.

(o) The Agency shall have the authority to issue certificates of competency to persons and laboratories meeting the minimum standards established by the Agency in accordance with Section 4(n) of this Act and to promulgate and enforce regulations relevant to the issuance and use of such certificates. The Agency may enter into formal working agreements with other departments or agencies of state government under which all or portions of this authority may be delegated to the cooperating department or agency.

(p) Except as provided in Section 17.7, the Agency shall have the duty to analyze samples as required from each public water supply to determine compliance with the contaminant levels specified by the Pollution Control Board. The maximum

number of samples which the Agency shall be required to analyze for microbiological quality shall be 6 per month, but the Agency may, at its option, analyze a larger number each month for any supply. Results of sample analyses for additional required bacteriological testing, turbidity, residual chlorine and radionuclides are to be provided to the Agency in accordance with Section 19. Owners of water supplies may enter into agreements with the Agency to provide for reduced Agency participation in sample analyses.

(q) The Agency shall have the authority to provide notice to any person who may be liable pursuant to Section 22.2(f) of this Act for a release or a substantial threat of a release of a hazardous substance or pesticide. Such notice shall include the identified response action and an opportunity for such person to perform the response action.

(r) The Agency may enter into written delegation agreements with any unit of local government under which it may delegate all or portions of its inspecting, investigating and enforcement functions. Such delegation agreements shall require that work performed thereunder be in accordance with Agency criteria and subject to Agency review. Notwithstanding any other provision of law to the contrary, no unit of local government shall be liable for any injury resulting from the exercise of its authority pursuant to such a delegation agreement unless the injury is proximately caused by the willful and wanton negligence of an agent or employee of the

unit of local government, and any policy of insurance coverage issued to a unit of local government may provide for the denial of liability and the nonpayment of claims based upon injuries for which the unit of local government is not liable pursuant to this subsection (r).

(s) The Agency shall have authority to take whatever preventive or corrective action is necessary or appropriate, including but not limited to expenditure of monies appropriated from the Build Illinois Bond Fund and the Build Illinois Purposes Fund for removal or remedial action, whenever any hazardous substance or pesticide is released or there is a substantial threat of such a release into the environment. The State, the Director, and any State employee shall be indemnified for any damages or injury arising out of or resulting from any action taken under this subsection. The Director of the Agency is authorized to enter into such contracts and agreements as are necessary to carry out the Agency's duties under this subsection.

(t) The Agency shall have authority to distribute grants, subject to appropriation by the General Assembly, to units of local government for financing and construction of wastewater facilities in both incorporated and unincorporated areas. With respect to all monies appropriated from the Build Illinois Bond Fund and the Build Illinois Purposes Fund for wastewater facility grants, the Agency shall make distributions in conformity with the rules and regulations established pursuant

to the Anti-Pollution Bond Act, as now or hereafter amended.

(u) Pursuant to the Illinois Administrative Procedure Act, the Agency shall have the authority to adopt such rules as are necessary or appropriate for the Agency to implement Section 31.1 of this Act.

(v) (Blank.)

(w) Neither the State, nor the Director, nor the Board, nor any State employee shall be liable for any damages or injury arising out of or resulting from any action taken under subsection (s).

(x)(1) The Agency shall have authority to distribute grants, subject to appropriation by the General Assembly, to units of local government for financing and construction of public water supply facilities. With respect to all monies appropriated from the Build Illinois Bond Fund or the Build Illinois Purposes Fund for public water supply grants, such grants shall be made in accordance with rules promulgated by the Agency. Such rules shall include a requirement for a local match of 30% of the total project cost for projects funded through such grants.

(2) The Agency shall not terminate a grant to a unit of local government for the financing and construction of public water supply facilities unless and until the Agency adopts rules that set forth precise and complete standards, pursuant to Section 5-20 of the Illinois Administrative Procedure Act, for the termination of such grants. The

Agency shall not make determinations on whether specific grant conditions are necessary to ensure the integrity of a project or on whether subagreements shall be awarded, with respect to grants for the financing and construction of public water supply facilities, unless and until the Agency adopts rules that set forth precise and complete standards, pursuant to Section 5-20 of the Illinois Administrative Procedure Act, for making such determinations. The Agency shall not issue a stop-work order in relation to such grants unless and until the Agency adopts precise and complete standards, pursuant to Section 5-20 of the Illinois Administrative Procedure Act, for determining whether to issue a stop-work order.

(y) The Agency shall have authority to release any person from further responsibility for preventive or corrective action under this Act following successful completion of preventive or corrective action undertaken by such person upon written request by the person.

(z) To the extent permitted by any applicable federal law or regulation, for all work performed for State construction projects which are funded in whole or in part by a capital infrastructure bill enacted by the 96th General Assembly by sums appropriated to the Environmental Protection Agency, at least 50% of the total labor hours must be performed by actual residents of the State of Illinois. For purposes of this subsection, "actual residents of the State of Illinois" means

persons domiciled in the State of Illinois. The Department of Labor shall promulgate rules providing for the enforcement of this subsection.

(aa) The Agency may adopt rules requiring the electronic submission of any information required to be submitted to the Agency pursuant to any State or federal law or regulation or any court or Board order. Any rules adopted under this subsection (aa) must include, but are not limited to, identification of the information to be submitted electronically.

(Source: P.A. 98-72, eff. 7-15-13.)

(415 ILCS 5/5) (from Ch. 111 1/2, par. 1005)

Sec. 5. Pollution Control Board.

(a) There is hereby created an independent board to be known as the Pollution Control Board.

Until July 1, 2003 or when all of the new members to be initially appointed under this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later, the Board shall consist of 7 technically qualified members, no more than 4 of whom may be of the same political party, to be appointed by the Governor with the advice and consent of the Senate.

The term of each appointed member of the Board who is in office on June 30, 2003 shall terminate at the close of business on that date or when all of the new members to be

initially appointed under this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later.

Beginning on July 1, 2003 or when all of the new members to be initially appointed under this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later, the Board shall consist of 5 technically qualified members, no more than 3 of whom may be of the same political party, to be appointed by the Governor with the advice and consent of the Senate. Members shall have verifiable technical, academic, or actual experience in the field of pollution control or environmental law and regulation.

Of the members initially appointed pursuant to this amendatory Act of the 93rd General Assembly, one shall be appointed for a term ending July 1, 2004, 2 shall be appointed for terms ending July 1, 2005, and 2 shall be appointed for terms ending July 1, 2006. Thereafter, all members shall hold office for 3 years from the first day of July in the year in which they were appointed, except in case of an appointment to fill a vacancy. In case of a vacancy in the office when the Senate is not in session, the Governor may make a temporary appointment until the next meeting of the Senate, when he or she shall nominate some person to fill such office; and any person so nominated, who is confirmed by the Senate, shall hold the office during the remainder of the term.

Members of the Board shall hold office until their

respective successors have been appointed and qualified. Any member may resign from office, such resignation to take effect when a successor has been appointed and has qualified.

Board members shall be paid \$37,000 per year or an amount set by the Compensation Review Board, whichever is greater, and the Chairman shall be paid \$43,000 per year or an amount set by the Compensation Review Board, whichever is greater. Each member shall devote his or her entire time to the duties of the office, and shall hold no other office or position of profit, nor engage in any other business, employment, or vocation. Each member shall be reimbursed for expenses necessarily incurred and shall make a financial disclosure upon appointment.

Each Board member may employ one secretary and one assistant, and the Chairman one secretary and 2 assistants. The Board also may employ and compensate hearing officers to preside at hearings under this Act, and such other personnel as may be necessary. Hearing officers shall be attorneys licensed to practice law in Illinois.

The Board may have an Executive Director; if so, the Executive Director shall be appointed by the Governor with the advice and consent of the Senate. The salary and duties of the Executive Director shall be fixed by the Board.

The Governor shall designate one Board member to be Chairman, who shall serve at the pleasure of the Governor.

The Board shall hold at least one meeting each month and such additional meetings as may be prescribed by Board rules.

In addition, special meetings may be called by the Chairman or by any 2 Board members, upon delivery of 24 hours written notice to the office of each member. All Board meetings shall be open to the public, and public notice of all meetings shall be given at least 24 hours in advance of each meeting. In emergency situations in which a majority of the Board certifies that exigencies of time require the requirements of public notice and of 24 hour written notice to members may be dispensed with, and Board members shall receive such notice as is reasonable under the circumstances.

If there is no vacancy on the Board, 4 members of the Board shall constitute a quorum to transact business; otherwise, a majority of the Board shall constitute a quorum to transact business, and no vacancy shall impair the right of the remaining members to exercise all of the powers of the Board. Every action approved by a majority of the members of the Board shall be deemed to be the action of the Board. The Board shall keep a complete and accurate record of all its meetings.

(b) The Board shall determine, define and implement the environmental control standards applicable in the State of Illinois and may adopt rules and regulations in accordance with Title VII of this Act.

(c) The Board shall have authority to act for the State in regard to the adoption of standards for submission to the United States under any federal law respecting environmental protection. Such standards shall be adopted in accordance with

Title VII of the Act and upon adoption shall be forwarded to the Environmental Protection Agency for submission to the United States pursuant to subsections (l) and (m) of Section 4 of this Act. Nothing in this paragraph shall limit the discretion of the Governor to delegate authority granted to the Governor under any federal law.

(d) The Board shall have authority to conduct proceedings upon complaints charging violations of this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order; upon administrative citations; upon petitions for variances, ~~or~~ adjusted standards, or time-limited water quality standards; upon petitions for review of the Agency's final determinations on permit applications in accordance with Title X of this Act; upon petitions to remove seals under Section 34 of this Act; and upon other petitions for review of final determinations which are made pursuant to this Act or Board rule and which involve a subject which the Board is authorized to regulate. The Board may also conduct other proceedings as may be provided by this Act or any other statute or rule.

(e) In connection with any proceeding pursuant to subsection (b) or (d) of this Section, the Board may subpoena and compel the attendance of witnesses and the production of evidence reasonably necessary to resolution of the matter under consideration. The Board shall issue such subpoenas upon the request of any party to a proceeding under subsection (d) of

this Section or upon its own motion.

(f) The Board may prescribe reasonable fees for permits required pursuant to this Act. Such fees in the aggregate may not exceed the total cost to the Agency for its inspection and permit systems. The Board may not prescribe any permit fees which are different in amount from those established by this Act.

(Source: P.A. 95-331, eff. 8-21-07.)

(415 ILCS 5/7.5) (from Ch. 111 1/2, par. 1007.5)

Sec. 7.5. Filing Fees.

(a) The Board shall collect filing fees as prescribed in this Act. The fees shall be deposited in the Pollution Control Board Fund. The filing fees shall be as follows:

Petition for site-specific regulation, \$75.

Petition for variance, \$75.

Petition for review of permit, \$75.

Petition to contest local government decision pursuant to Section 40.1, \$75.

Petition for an adjusted standard, pursuant to Section 28.1, \$75.

Petition for a time-limited water quality standard, \$75 per petitioner.

(b) A person who has filed a petition for a variance from a water quality standard and paid the filing fee set forth in subsection (a) of this Section for that petition and whose

variance petition is thereafter converted into a petition for a time-limited water quality standard under Section 38.5 of this Act shall not be required to pay a separate filing fee upon the conversion of the variance petition into a petition for a time-limited water quality standard.

(Source: P.A. 85-1440.)

(415 ILCS 5/29) (from Ch. 111 1/2, par. 1029)

Sec. 29. (a) Any person adversely affected or threatened by any rule or regulation of the Board may obtain a determination of the validity or application of such rule or regulation by petition for review under Section 41 of this Act.

(b) Action by the Board in adopting any regulation for which judicial review could have been obtained under Section 41 of this Act shall not be subject to review regarding the regulation's validity or application in any subsequent proceeding under Title VIII, Title IX or Section 40 of this Act.

(c) This Section does not apply to orders entered by the Board pursuant to Section 38.5 of this Act. Final orders entered by the Board pursuant to Section 38.5 of this Act are subject to judicial review under subsection (j) of that Section. Interim orders entered by the Board pursuant to Section 38.5 are not subject to judicial review under this Section or Section 38.5.

(Source: P.A. 85-1048.)

(415 ILCS 5/Tit. IX heading)

TITLE IX: VARIANCES AND TIME-LIMITED WATER QUALITY STANDARDS

(415 ILCS 5/38.5 new)

Sec. 38.5. Time-limited water quality standards.

(a) To the extent consistent with the Federal Water Pollution Control Act, rules adopted by the United States Environmental Protection Agency under that Act, this Section, and rules adopted by the Board under this Section, the Board may adopt, and may conduct non-adjudicatory proceedings to adopt, a time-limited water quality standard for a watershed or one or more of the following:

- (1) water bodies;
- (2) waterbody segments; or
- (3) dischargers.

(b) A time-limited water quality standard may be sought by:

(1) persons who file with the Board a petition for a time-limited water quality standard under this Section;
and

(2) persons who have a petition for a variance from a water quality standard under Section 35 of this Act converted into a petition for a time-limited water quality standard under subsection (c) of this Section.

(c) Any petition for a variance from a water quality

standard under Section 35 of this Act that was filed with the Board before the effective date of this amendatory Act of the 99th General Assembly and that has not been disposed of by the Board shall be converted, by operation of law, into a petition for a time-limited water quality standard under this Section on the effective date of this amendatory Act of the 99th General Assembly.

(d) The Board's hearings concerning the adoption of time-limited water quality standards shall be open to the public and must be held in compliance with 40 CFR 131.14, including, but not limited to, the public notice and participation requirements referenced in 40 CFR 25 and 40 CFR 131.20(b); this Section; and rules adopted by the Board under this Section.

(e) Within 21 days after any petition for a time-limited water quality standard is filed with the Board under this Section, or within 21 days after the effective date of this amendatory Act of the 99th General Assembly in the case of a petition for time-limited water quality standard created under subsection (c) of this Section, the Agency shall file with the Board a response that:

(1) identifies the discharger or classes of dischargers affected by the water quality standard from which relief is sought;

(2) identifies the watershed, water bodies, or waterbody segments affected by the water quality standard

from which relief is sought;

(3) identifies the appropriate type of time-limited water quality standard, based on factors, such as the nature of the pollutant, the condition of the affected water body, and the number and type of dischargers; and

(4) recommends, for the purposes of subsection (h), prompt deadlines for the classes of dischargers to file a substantially compliant petition.

(f) Within 30 days after receipt of a response from the Agency under subsection (e) of this Section, the Board shall enter a final order that establishes the discharger or classes of dischargers that may be covered by the time-limited water quality standard and prompt deadlines by which the discharger and dischargers in the identified classes must, for the purposes of subsection (h), file with the Board either:

(1) a petition for a time-limited water quality standard, if the petition has not been previously filed; or

(2) an amended petition for a time-limited water quality standard, if the petition has been previously filed and it is necessary to file an amended petition to maintain a stay under paragraph (3) of subsection (h) of this Section.

(g) As soon as practicable after entering an order under subsection (f), the Board shall conduct an evaluation of the petition to assess its substantial compliance with 40 CFR 131.14, this Section, and rules adopted pursuant to this

Section. After the Board determines that a petition is in substantial compliance with those requirements, the Agency shall file a recommendation concerning the petition.

(h) (1) The effectiveness of a water quality standard from which relief is sought shall be stayed as to the following persons from the effective date of the water quality standard until the stay is terminated as provided in this subsection:

(A) any person who has a petition for a variance seeking relief from a water quality standard under Section 35 of this Act converted into a petition for a time-limited water quality standard under subsection (c) of this Section;

(B) any person who files a petition for a time-limited water quality standard within 35 days after the effective date of the water quality standard from which relief is sought; and

(C) any person, not covered by subparagraph (B) of this subsection, who is a member of a class of dischargers that is identified in a Board order under subsection (f) that concerns a petition for a time-limited water quality standard that was filed within 35 days after the effective date of the water quality standard from which relief is sought and who files a petition for a time-limited water quality standard before the deadline established for that class under subsection (f) of this Section.

(2) If the Board determines that the petition of a person described in paragraph (1) of this subsection is in substantial compliance, then the stay shall continue until the Board:

(A) denies the petition and all rights to judicial review of the Board order denying the petition are exhausted; or

(B) adopts the time-limited water quality standard and the United States Environmental Protection Agency either:

(i) approves the time-limited water quality standard; or

(ii) disapproves the time-limited water quality standard for failure to comply with 40 CFR 131.14.

(3) If the Board determines that the petition of a person described in paragraph (1) of this subsection is not in substantial compliance, then the Board shall enter an interim order that identifies the deficiencies in the petition that must be corrected for the petition to be in substantial compliance. The petitioner must file an amended petition by the deadlines adopted by the Board pursuant to subsection (f), and the Board shall enter, after the applicable Board-established deadline, a final order that determines whether the amended petition is in substantial compliance.

(4) If the Board determines that the amended petition described in paragraph (3) of this subsection is in substantial compliance, then the stay shall continue until the Board:

(A) denies the petition and all rights to judicial review of the Board order denying the petition are exhausted; or

(B) adopts the time-limited water quality standard and the United States Environmental Protection Agency either:

(i) approves the time-limited water quality standard; or

(ii) disapproves the time-limited water quality standard for failure to comply with 40 CFR 131.14.

(5) If the Board determines that the amended petition described in paragraph (3) of this subsection is not in substantial compliance by the Board-established deadline, the Board shall deny the petition and the stay shall continue until all rights to judicial review are exhausted.

(6) If the Board determines that a petition for a time-limited water quality standard is not in substantial compliance and if the person fails to file, on or before the Board-established deadline, an amended petition, the Board shall dismiss the petition and the stay shall continue until all rights to judicial review are exhausted.

(7) If a person other than a person described in paragraph (1) of subsection (h) of this Section files a petition for a time-limited water quality standard, then the effectiveness of the water quality standard from which relief is sought shall not be stayed as to that person. However, the person may seek a time-limited water quality standard from the Board by complying with 40 CFR 131.14, this Section, and rules adopted pursuant to this Section.

(i) Each time-limited water quality standard adopted by the Board for more than one discharger shall set forth criteria that may be used by dischargers or classes of dischargers to obtain coverage under the time-limited water quality standard during its duration. Any discharger that has not obtained a time-limited water quality standard may obtain coverage under a Board-approved time-limited water quality standard by satisfying, at the time of the renewal or modification of that person's federal National Pollutant Discharge Elimination System (NPDES) permit or at the time the person files an application for certification under Section 401 of the federal Clean Water Act, the Board-approved criteria for coverage under the time-limited water quality standard.

(j) Any person who is adversely affected or threatened by a final Board order entered pursuant to this Section may obtain judicial review of the Board order by filing a petition for review within 35 days after the date the Board order was served on the person affected by the order, under the provisions of

the Administrative Review Law, and the rules adopted pursuant thereto, except that review shall be afforded directly in the appellate court for the district in which the cause of action arose and not in the circuit court. For purposes of judicial review under this subsection, a person is deemed to have been served with the Board's final order on the date on which the order is first published by the Board on its website.

No challenge to the validity of a final Board order under this Section shall be made in any enforcement proceeding under Title XII of this Act as to any issue that could have been raised in a timely petition for review under this subsection.

(k) Not later than 6 months after the effective date of this amendatory Act of the 99th General Assembly, the Agency shall propose, and not later than 9 months thereafter the Board shall adopt, rules that prescribe specific procedures and standards to be used by the Board when adopting time-limited water quality standards. The public notice and participation requirements in 40 CFR 25 and 40 CFR 131.20(b) shall be incorporated into the rules adopted under this subsection.

Until the rules adopted under this subsection are effective, the Board may adopt time-limited water quality standards to the full extent allowed under this Section and 40 C.F.R. 131.14.

(l) Section 5-35 of the Illinois Administrative Procedure Act, Title VII of this Act, and the other Sections in Title IX of this Act do not apply to Board proceedings under this

Section.

(415 ILCS 5/41) (from Ch. 111 1/2, par. 1041)

Sec. 41. Judicial review.

(a) Any party to a Board hearing, any person who filed a complaint on which a hearing was denied, any person who has been denied a variance or permit under this Act, any party adversely affected by a final order or determination of the Board, and any person who participated in the public comment process under subsection (8) of Section 39.5 of this Act may obtain judicial review, by filing a petition for review within 35 days from the date that a copy of the order or other final action sought to be reviewed was served upon the party affected by the order or other final Board action complained of, under the provisions of the Administrative Review Law, as amended and the rules adopted pursuant thereto, except that review shall be afforded directly in the Appellate Court for the District in which the cause of action arose and not in the Circuit Court. Review of any rule or regulation promulgated by the Board shall not be limited by this section but may also be had as provided in Section 29 of this Act.

(b) Any final order of the Board under this Act shall be based solely on the evidence in the record of the particular proceeding involved, and any such final order for permit appeals, enforcement actions and variance proceedings, shall be invalid if it is against the manifest weight of the

evidence. Notwithstanding this subsection, the Board may include such conditions in granting a variance and may adopt such rules and regulations as the policies of this Act may require. If an objection is made to a variance condition, the board shall reconsider the condition within not more than 75 days from the date of the objection.

(c) No challenge to the validity of a Board order shall be made in any enforcement proceeding under Title XII of this Act as to any issue that could have been raised in a timely petition for review under this Section.

(d) If there is no final action by the Board within 120 days on a request for a variance which is subject to subsection (c) of Section 38 or a permit appeal which is subject to paragraph (a) (3) of Section 40 or paragraph (d) of Section 40.2 or Section 40.3, the petitioner shall be entitled to an Appellate Court order under this subsection. If a hearing is required under this Act and was not held by the Board, the Appellate Court shall order the Board to conduct such a hearing, and to make a decision within 90 days from the date of the order. If a hearing was held by the Board, or if a hearing is not required under this Act and was not held by the Board, the Appellate Court shall order the Board to make a decision within 90 days from the date of the order.

The Appellate Court shall retain jurisdiction during the pendency of any further action conducted by the Board under an order by the Appellate Court. The Appellate Court shall have

jurisdiction to review all issues of law and fact presented upon appeal.

(e) This Section does not apply to orders entered by the Board pursuant to Section 38.5 of this Act. Final orders entered by the Board pursuant to Section 38.5 of this Act are subject to judicial review under subsection (j) of that Section. Interim orders entered by the Board pursuant to Section 38.5 are not subject to judicial review under this Section or Section 38.5.

(Source: P.A. 99-463, eff. 1-1-16.)

Section 99. Effective date. This Act takes effect upon becoming law.